

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LYNN R. NELSON,

Plaintiffs,

CASE NO. 8: 14 CV 228

v.

BLUE CROSS AND BLUE SHIELD OF
NE,

Defendant.

NOTICE OF REMOVAL

TO: Lynn R. Nelson, Jason Bruno, plaintiff's attorney, and the Clerk of the United States District Court for the District of Nebraska

The Defendant, Blue Cross and Blue Shield of Nebraska (erroneously designated as "Blue Cross and Blue Shield of NE") ("BCBSNE"), respectfully notifies the Court that it has removed the above-referenced action from the District Court of Douglas County, Nebraska, Case No. CI 14-5384, to the United States District Court for the District of Nebraska. In support of its removal, BCBSNE states as follows:

1. On July 7, 2014, Lynn R. Nelson ("Plaintiff") filed the above-entitled civil action in the District Court of Douglas County, Nebraska. Defendant was served with a copy of the Complaint thereafter on or about July 8, 2014 by certified mail. Accordingly, this Notice of Removal is filed pursuant to 28 U.S.C. § 1446 within 30 days of BCBSNE's first receipt of the Complaint.

2. As alleged in Plaintiff's Complaint at ¶ 3, at all times relevant, plaintiff was eligible to, and did, participate in a group health insurance plan (the "Plan") offered by her employer, ConAgra Foods ("ConAgra"). Attached as Exhibit "A" are true and correct copies of Plaintiff's Summons and Complaint and Praeclipe. To BCBSNE's knowledge,

no other pleadings or papers have been served or filed to date with the District Court of Douglas County, Nebraska.

3. The Plan is an employee welfare benefit plan, providing healthcare benefits coverage to ConAgra employees. The Plan was established and is maintained by ConAgra. (Exhibit B, Rudman Aff. at Exhibit 1, p. 4, §§ 1.17 and 1.20, Administrative Services Agreement between BCBSNE and ConAgra).

4. This Court has original jurisdiction over the issues presented in the Complaint pursuant to 28 U.S.C. § 1331, because Plaintiff's claim is governed by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001-1461. This action is brought to recover benefits allegedly due under the terms of a group employee welfare benefit plan established and maintained by Plaintiff's employer. Section 502(f) of ERISA, 29 U.S.C. § 1132(f), provides that the District Courts of the United States shall have jurisdiction, without respect to the amount in controversy or the citizenship of the parties, over actions brought to recover benefits allegedly due under an employee welfare benefit plan.

5. Attached as Exhibit "B" is the Affidavit of Nicholas K. Rudman with Exhibit 1, the Administrative Services Agreement between ConAgra Foods, Inc. and BCBSNE, attached. Confidential and proprietary information has been redacted.

6. Attached hereto as Exhibit "C" is a true and correct copy of the Notice of Filing of Notice of Removal which has been served with this document on all parties and is being filed with the District Court of Douglas County, Nebraska.

7. BCBSNE expressly reserves all defenses to Plaintiff's claims, including, but not limited to, all defenses based in law, equity, statute, constitution, jurisdiction, or

immunity, any other defense or avoidance, and does not waive any defense by this removal.

8. BCBSNE requests trial of this matter in Omaha, Nebraska.

WHEREFORE, BCBSNE respectfully provides notice of the removal of the above-entitled action from the District Court of Douglas County, Nebraska, to the United States District Court for the District of Nebraska, and prays for such further relief as this court deems appropriate.

BLUE CROSS AND BLUE SHIELD OF
NEBRASKA, Defendant,

By: /s/ Nicholas K. Rudman

Thomas E. Johnson, #12089
Nicholas K. Rudman, #25182
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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to counsel for the Plaintiff at jbruno@sherrets.com; that I emailed a true and exact copy of the foregoing document to the foregoing email address; and that I sent a true and exact copy of the foregoing document to Plaintiff's counsel by first class United States mail, addressed as follows:

Jason Bruno
Sherrets, Bruno & Vogt LLC
260 Regency Pkwy Dr., #200
Omaha, NE 68114

/s/ Nicholas K. Rudman

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